

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION**

	)	
In the matter of:	)	<b>Directive No. 98-023 (Complaint No. 023)</b>
	)	<b>for</b>
<b>LOS ANGELES COUNTY</b>	)	<b>Administrative Civil Liability for</b>
<b>DEPARTMENT OF</b>	)	<b>Violations of the California Water Code</b>
<b>PUBLIC WORKS</b>	)	<b>Sections 13264, 13271, and 13376</b>
	)	

**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. The County of Los Angeles Department of Public Works (hereinafter County Public Works) is alleged to have violated the California Water Code, for which the Regional Water Quality Control Board, Los Angeles Region (hereinafter Regional Board) may impose civil liability pursuant to Section 13385 of the California Water Code.
2. On June 29, 1998, a hearing on this matter was held before the Regional Board during a public meeting in Courtroom No. 3, Richard H. Chambers US Court of Appeals, 125 South Grand Avenue, Pasadena, California. You and/or your representatives had an opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board.
3. At the hearing, the Regional Board considered whether to affirm, reject, or modify the proposed civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability, or any other action appropriate as a result of the hearing.

**ALLEGATIONS**

4. On October 25, 1997, County Public Works caused an overflow of raw sewage, in a reported quantity of approximately 20,000 gallons, into the Santa Monica Bay. Impacts from this overflow include: (i) a risk to public health for the period of time between 12:42 p.m. on October 25, 1997 (when the overflow of raw sewage is known to have been observed) and 1 p.m. on October 26, 1997, when the overflow was finally reported and beaches were closed; (ii) public nuisance resulting from exposure of raw sewage along Coastline Drive, Pacific Coast Highway, and onto a beach; and (iii) economic losses estimated at \$118,000, resulting from two days of beach closures. Other impacts, that may have affected beneficial uses such as aquatic life, are unknown.

County Public Works was alleged to have violated the following sections of the California Water Code:

- a. sections 13264 and 13376, which prohibit discharge of wastes and into waters of the states, except as authorized by waste discharge requirements; and
  - b. section 13271, which specifies spill notification procedures.
5. The facts set forth below are the basis for the alleged violations. These facts are based upon: Spill report, dated November 10, 1997, submitted by the County Sanitation Districts of Los Angeles County (LA Sanitation); inspection memoranda from County Public Works staff, dated November 5, 1997 and November 7, 1997; letter report, dated January 28, 1998, submitted by County Public Works; meetings on January 8, 1998 and February 26, 1998, attended by representatives of County Public Works, LA Sanitation, and the Regional Board; several meetings between March 31, 1998 and June 25, 1998, attended by representatives from County Public Works and the Regional Board; several phone conversations; and evidence submitted to Regional Board staff on June 16, 1998 and presented to the Regional Board on June 29, 1998 during the public hearing.
- a. County Public Works owns and maintains a satellite sewer system for a residential area located between Pacific Palisades and Malibu. County Public Works' satellite sewer system flows into a regional sewer system owned and operated by the LA Sanitation. LA Sanitation has designated County Public Works' satellite sewer system in this area as District No. 27.
  - b. County Public Works contracted with Carpenter, Cash, and Littleton Inc. (Contractor) to replace a portion of County Public Works' satellite sewer line. County Public Works expected the Contractor to follow standard specifications for public works construction, including installation of a sewage bypass system (complete with sand trap), as specified in The Standard Specifications for Public Works Construction (Greenbook) and Additions and Amendments to the Standard Specifications for Public Works Construction (Greybook).
  - c. On the morning of Saturday, October 25, 1997, the Contractor was replacing a portion of County Public Work's 8-inch satellite sewer on Coastline Drive, north of the intersection with Pacific Coast Highway. Instead of installing a bypass system to enable replacement of the sewer in dresrd cr in(or isllow standpConticetrap97, the Contrac of ins owne and )JTJT\*0.0 On the mor,d tcalefxc97, rks construccstellted10 a.mok).

of the intersection with Pacific Coast Highway. Public beaches are present along the southern side of the Pacific Coast Highway.

- e. At 12:42 p.m. on October 25, 1997, the Contractor notified a dispatcher at County Public Works (via telephone) of the overflow of raw sewage from the manhole downstream of the construction site. County Public Works did not report this overflow to the Office of Emergency Services. County Public Works' inspector had not returned to the construction at this time.
- f. The failure of the inflatable plug caused raw sewage to flow into a gutter along Coastline Drive, a drainage ditch along the north side of Pacific Coast Highway, a storm drain that flowed underneath Pacific Coast Highway, and onto a public beach.
- g. At 2:30 p.m. on October 25, 1997, the inspector for County Public Works returned to the construction site. County Public Works did not report the overflow of raw sewage to the Office of Emergency Services.
- h. At 4:30 p.m. on October 25, 1997, County Public Work's sewer maintenance crew arrived at the overflow site. County Public Works still did not report the overflow of raw sewage to the Office of Emergency Services.
- i. At 5:10 p.m. on October 25, 1997, County Public Works' sewer maintenance crew notified LA Sanitation of the overflow of raw sewage. LA Sanitation's representative authorized Public Work's sewer maintenance crew to clear the blockage. Neither County Public Works nor LA Sanitation reported the overflow of raw sewage to the Office of Emergency Services at this time.
- j. At 5:30 p.m. on October 25, 1997, County Public Works' sewer maintenance crew cleared the blockage in LA Sanitation's downstream sewer. In clearing the blockage, the crew apparently washed blockage debris into LA Sanitation's lead pump at the No. 27 Pumping Plant, located downstream of the blockage.
- k. At 6:00 p.m. on October 25, 1997, a representative of LA Sanitation arrived at the site of the overflow. County Public Works then recovered raw sewage that had ponded in a drainage ditch along the north side of Pacific Coast Highway, extending from Coastline Drive to a catch basin approximately 100 yards to the west.
- l. On Sunday morning, October 26, 1997, an LA Sanitation crew repaired the lead pump at the District No. 27 Pumping Plant, and performed additional cleanup along the north edge of Pacific Coast Highway. Cleanup was completed by 11:00 a.m.
- m. By 1:00 p.m. on October 26, 1997, LA Sanitation completed a review of computer records for the District No. 27 Pumping Plant. Based upon this review, LA Sanitation estimated that the overflow of raw sewage on the previous day had totaled 20,000 gallons. At this time, LA Sanitation notified authorities, including the Office of Emergency Services, County of Los Angeles Department of Health Services, and the Regional Board, of the overflow of raw sewage. In order to protect public health, the County of Los

Angeles Department of Health Services immediately closed a one-mile stretch of beaches between Tuna Canyon in Malibu and Sunset Blvd. in Los Angeles.

- n. Monitoring for contamination in the surf area did not occur on October 25, 1997. On the afternoon of Sunday, October 26, 1997 and on Monday, October 27, 1997, LA Sanitation monitored the surf at five locations for evidence of bacteriological contamination.
  - Samples collected on Sunday, October 26, 1997 from a sampling station at the surfline opposite Coastline Drive had coliform counts of 14,000 (total) and 1,200 (fecal) per 100 ml. Results from this sampling station may reflect urban runoff from a 5-foot by 8-foot box storm drain. Four other monitoring stations did not show elevated levels of bacteria on October 26, 1997.
  - Stations sampled on Monday, October 27, 1997 did not have abnormally elevated bacteriological levels. Results from the sampling station at the surfline opposite Coastline Drive had coliform counts of 2,400 (total) and 200 (fecal) per 100 ml.
- o. On Tuesday, October 28, 1997, the County of Los Angeles Department of Health Services reopened the beaches. Economic losses, based upon beach attendance, are estimated to total \$118,000 for the two-day closure from October 26, 1997 to October 28, 1997.

Regional Board staff conclude that impacts resulting from the overflow of raw sewage could have been avoided had County Public Works ensured that its Contractor implemented standard construction procedures, such as a sewage bypass system (rather than an inflatable plug). Furthermore, the risk to public health could have been mitigated had the overflow been promptly reported.

### **PROPOSED CIVIL LIABILITY**

- 6. The total maximum civil liability authorized by the California Water Code is \$210,000, which includes \$20,000 under section 13385(c)(1) and \$190,000 under section 13385(c)(2) of the California Water Code.
  - a. Under section 13385 (c)(1), the maximum civil liability that could be imposed by the Regional Board for violation of the California Water Code is \$10,000 per day per violation. County Public Works is alleged to have violated sections 13264, 13271, and 13376 of the California Water Code on October 25, 1998. Therefore, the maximum liability under 13385(c)(1) of the California Water Code is:  
  
$$1 \text{ day} \times 2 \text{ violations} \times \$10,000 \text{ per day} = \$20,000$$
  - b. Under section 13385(c)(2) of the California Water Code, the maximum civil liability that could be imposed by the Regional Board for violation of section 13376 of the California Water Code is ten dollars per gallon of discharge for volumes greater than 1,000 gallons. Therefore, the maximum liability under section 13385(c)(2) of the California Water Code is:

[20,000 gallons - 1,000 gallons] x \$10 per gallon = \$190,000

7. Pursuant to section 13385(e) of the California Water Code, the Regional Board was required to consider the following factors in determining the amount of civil liability to be imposed: the nature, circumstances, extent, and gravity of the violations; with respect to the violator, the ability to pay; any prior history of violations; the degree of culpability; economic benefit or savings, if any, resulting from the violation; and other matters as justice may require.

- a. Nature, circumstances, extent, and gravity of the violations: County Public Works discharged a reported quantity of approximately 20,000 gallons of raw sewage on October 25, 1997, in violation of the California Water Code. Furthermore, County Public Works failed to follow proper spill notification procedures. As a result, the overflow of raw sewage created a condition of pollution and nuisance on public streets and beaches, and beaches along a portion of the Santa Monica Bay were closed for a period of two days. Furthermore, failure to follow spill notification procedures contributed to a delay in closing the beaches.

However, at the hearing on June 29, 1998, representatives of County Public Works presented evidence disputing the reported quantity of 20,000 gallons for the overflow on October 25, 1997. After considering this evidence, the Regional Board determined that a more accurate estimate of the quantity discharged is 13,000 gallons. Therefore, a reduction from the maximum civil liability is warranted.

- b. The ability of the discharger to pay: Staff does not possess any information suggesting County Public Works' inability to pay the civil liability. Therefore, no reduction from the maximum civil liability is warranted.
- c. Prior history of violations: The Regional Board is not aware of a prior history of violations by County Public Works. Therefore, a reduction from the maximum civil liability is warranted.
- d. Degree of culpability: As explained in section 5 above, the violations could have been avoided with standard construction procedures, such as a sewage bypass system. As the owner and operator of the satellite sewer system, County Public Works assumes legal responsibility for conduct of its contractors. Therefore, no reduction from the maximum civil liability is warranted.
- e. Economic benefit or savings: County Public Works may have realized an economic benefit by not ensuring implementation of standard construction practices, such as a sewage bypass system. Therefore, no reduction from the maximum civil liability is warranted.
- f. Other matters as justice may require: Other matters to consider include time spent by the staff of the Regional Board in evaluating the violations and preparing this Order and related documents. The Regional Board charges a rate of \$70 per hour for staff cost recovery. As of March 31, 1998, staff costs incurred by the Regional Board totaled \$5,000. Between March 31, 1998 and June 29, 1998, staff costs incurred by the Regional Board totaled an additional \$3,300.

8. After consideration of the factors listed in Section 13327 and Section 13385(e) of the California Water Code, the Regional Board Executive Officer issued a civil liability on March 31, 1998 in the amount of \$123,000, which consisted of economic impacts of \$118,000 from beach closures and staff costs of \$5,000.
9. Upon consideration and deliberation of the evidence presented at the hearing on June 29, 1998, the Regional Board upheld imposition of an administrative civil liability. However, as the Regional Board determined that a more accurate estimate of the quantity of the overflow of raw sewage on October 25, 1997 was 13,000 gallons, the Board reduced the amount of the civil liability from \$123,000 to \$81,000; this determination was based upon engineering calculations submitted by County Public Works, estimating the maximum overflow rate which could occur from the sewer system without lifting a manhole cover. The reduced amount of \$81,000 was based upon: (a) \$10,000 for the unauthorized discharge of raw sewage on October 25, 1997; (b) \$10,000 for the failure to notify spill authorities of the discharge of raw sewage on October 25, 1997; (c) \$40,000, representing approximately one-third of the estimated \$118,000 in economic impacts associated with the beach closures resulting from the October 25, 1997 overflow of raw sewage; (d) \$13,000 for the estimated 13,000 gallons of raw sewage that overflowed on October 25, 1997; and (e) \$8,000 in Regional Board staff costs.
10. Upon further deliberation of the evidence, the Regional Board directed that the civil liability of \$81,000 is to be used to partially fund a supplemental environmental project concerning the reliance on septic systems for the disposal of wastewaters in densely populated areas of the City of Malibu.
11. In the event that County Public Works fails to make the payment of \$81,000 for the supplemental environmental project by July 29, 1998, the administrative civil liability shall be increased to \$100,000, and shall be immediately due and payable.
12. This action is exempt from the requirements of the California Environmental Quality Act, California Public Resources Code, section 21000, et seq., as an enforcement action pursuant to Title 14, California Code of Regulations, Section 15321.

**IT IS HEREBY ORDERED** that, pursuant to Section 13323 of the California Water Code, the County of Los Angeles Department of Public Works shall submit a check for administrative civil liability in the amount of eighty-one thousand dollars (\$81,000), to the Regional Board by July 29, 1998. In the event that County Public Works fails to comply with the requirements of this Complaint, the Executive Officer is authorized to refer this matter to the Office of Attorney General for enforcement.

I, Dennis A. Dickerson, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board on June 29, 1998.

---

Dennis A. Dickerson, Executive Officer

Date: June 29, 1998